

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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4 MR. CLAYTON-M. BERNARD-EX,

Case No. 2:25-cv-00569-RFB-BNW

5 Plaintiff,

ORDER

6 v.

7 MICHELLE ARTICE GARDNER,

8 Defendant.
9

10 Before the Court are two motions from Plaintiff Mr. Clayton-M. Bernard-Ex. that request
11 various forms of relief. ECF Nos. 31 and 32. The Court addresses each request, in turn, below:

12 ***Correct caption.*** Mr. Clayton-M. Bernard-Ex. asks the Court to correct the case's caption
13 to reflect his whole name. The Court denies this request as moot because the docket already
14 accurately displays his entire name. Mr. Clayton-M. Bernard-Ex. also requests that the Court not
15 shorten his name or use shorthand in reference to him in its orders, as it denies him due process.
16 ECF No. 31. While the Court disagrees that the use of shorthand violates his due process, the
17 Court, as a courtesy, will try its best to comply with Mr. Clayton-M. Bernard-Ex.'s request to
18 reference him by his full name.

19 ***Acknowledge Defendant's breach.*** Mr. Clayton-M. Bernard-Ex. asks the Court to
20 acknowledge Defendant's breach. ECF No. 31. The Court denies this request because it is too
21 early in the case to make factual and legal determinations.

22 ***Preserve record for appeal.*** Mr. Clayton-M. Bernard-Ex. requests that the Court preserve
23 the record for appeal. ECF Nos. 31 and 32. The Court denies this request as moot because
24 preservation of the record occurs automatically; Mr. Clayton-M. Bernard-Ex. does not need to
25 request such relief from the Court.

26 ***Serve Defendant via publication.*** Mr. Clayton-M. Bernard-Ex. seeks to serve Defendant
27 by publication. ECF Nos. 31 and 32. The Court denies this request without prejudice because it is
28 not supported by a memorandum of points and authorities. *See* Local Rule 7-2(a). Should Mr.

1 Clayton-M. Bernard-Ex. choose to re-file his motion for alternative service, it must be supported
2 by a memorandum of points and authorities and comply with the applicable rules of civil
3 procedure. *See id.*; FED. R. CIV. P. 4(e); NEV. R. CIV. P. 4.4(c).

4 ***Strike documents.*** Mr. Clayton-M. Bernard-Ex. asks the Court to strike Defendant's
5 filings that contain false addresses. ECF No. 32. The Court denies this request because Defendant
6 has not appeared in this case and has not filed any documents. Thus, there is nothing for the Court
7 to strike. *See* ECF No. 14.

8 ***Refer matter for prosecution.*** Mr. Clayton-M. Bernard-Ex. requests that the Court refer
9 this matter for prosecution. ECF No. 32. The Court denies this request because it is not the
10 Court's practice to refer matters for prosecution. Mr. Clayton-M. Bernard-Ex. is free to consult
11 the United States Attorney's Office regarding potential prosecution should he deem it necessary.

12 ***Sanction Defendant.*** Mr. Clayton-M. Bernard-Ex. asks the Court to sanction Defendant
13 under Federal Rule of Civil Procedure 60(d)(3), the Court's inherent authority, Federal Rule of
14 Civil Procedure 11, and 18 U.S.C. § 1001. ECF No. 32. The Court denies this request.
15 Rule 60(d)(3) allows a court to set aside judgment for fraud on the court. There is no judgment in
16 this case, and Defendant has not yet appeared, so no fraud "on the court" has occurred. As to the
17 Court's inherent authority, Mr. Clayton-M. Bernard-Ex. has not identified any bad faith
18 committed by Defendant *in this case*. The Court cannot sanction Defendant under Rule 11
19 because Defendant, again, has not appeared nor filed anything in this case. Finally, 18 U.S.C.
20 § 1001 is a criminal statute that does not provide a basis for sanctions.

21 ***Acknowledge jurisdiction.*** Lastly, Mr. Clayton-M. Bernard-Ex. asks the Court to
22 acknowledge that it has jurisdiction. ECF No. 31. The Court denies this request because it is not
23 apparent from Mr. Clayton-M. Bernard-Ex.'s First Amended Complaint (ECF No. 26) that the
24 Court has subject matter jurisdiction. The FAC asserts that the Court has federal question
25 jurisdiction, but it is unclear under which federal statutes Mr. Clayton-M. Bernard-Ex brings his
26 causes of action for fraud and misrepresentation, abuse of process, and civil conspiracy. The FAC
27 also asserts that the Court has diversity jurisdiction, but the FAC does not plead Defendant's
28 citizenship nor the amount in controversy. Because the FAC fails to sufficiently plead subject

1 matter jurisdiction, Mr. Clayton-M. Bernard-Ex. must file an amended complaint by **June 13,**
2 **2025** that cures these deficiencies. Failure to do so may result in a recommendation that this case
3 be dismissed.

4 **I. CONCLUSION**

5 **IT IS THEREFORE ORDERED** that Plaintiff Mr. Clayton-M. Bernard-Ex.'s Motion to
6 Correct Caption and to Acknowledge Jurisdiction, Standing, and Breach of Agreement (ECF
7 No. 31) is **DENIED**.

8 **IT IS FURTHER ORDERED** that Plaintiff Mr. Clayton-M. Bernard-Ex.'s Motion for
9 Sanctions and Referral for Fraud on the Court (ECF No. 32) is **DENIED**.

10 **IT IS FURTHER ORDERED** that Plaintiff Mr. Clayton-M. Bernard-Ex. must file an
11 amended complaint by **June 13, 2025**. Failure to do so may result in a recommendation that this
12 case be dismissed.

13
14 DATED: May 14, 2025

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16 BREND A WEKSLER
17 UNITED STATES MAGISTRATE JUDGE
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